

AMENDED IN SENATE APRIL 24, 2007

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 27

Introduced by Senators Simitian, Machado, Perata, and Steinberg

December 4, 2006

An act to add Division 26.6 (commencing with Section 79600) to the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as amended, Simitian. Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2008.

Under existing law, various state agencies administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta.

This bill would require the Secretary of the Resources Agency, on or before January 1, 2008, to begin implementing certain actions on behalf of the Sacramento-San Joaquin River Delta, including investing in emergency preparedness, funding projects to aid sustainability in the delta, identifying critical levels to be strengthened, and commencing delta restoration projects. The secretary would be required to take necessary action to ensure that the requirements of a specified Governor's executive order relating to the delta are met in a timely manner. The bill would declare legislative intent to enact legislation to begin implementing a program for sustainable management of the delta in 2008. The bill would make related declarations and findings.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 26.6 (commencing with Section 79600)
2 is added to the Water Code, to read:

3
4 DIVISION 26.6. SACRAMENTO-SAN JOAQUIN RIVER
5 DELTA, CLEAN DRINKING WATER, WATER SUPPLY
6 SECURITY, AND ENVIRONMENTAL IMPROVEMENT ACT
7 OF 2008
8

9 79600. This division shall be known, and may be cited, as the
10 Sacramento-San Joaquin River Delta, Clean Drinking Water, Water
11 Supply Security, and Environmental Improvement Act of 2008.

12 79601. The Legislature finds and declares all of the following:

13 (a) The Sacramento-San Joaquin River Delta is a web of
14 channels and reclaimed islands at the confluence of the Sacramento
15 and San Joaquin Rivers. It forms the eastern portion of the wider
16 San Francisco Estuary, which includes the San Francisco, San
17 Pablo, and Suisun Bays. The delta collects water from California's
18 largest watershed, which encompasses roughly 45 percent of the
19 state's surface area and stretches from the eastern slopes of the
20 coastal ranges to the western slopes of the Sierra Nevada.

21 (b) The delta supports a unique and irreplaceable combination
22 of environmental and economic values, including all of the
23 following:

24 (1) A unique ecosystem. The delta and the adjacent Suisun
25 Marsh, an integral part of the delta ecosystem, provide habitat for
26 700 species, including 12 species listed under either the California
27 or federal endangered species acts. Eighty percent of the state's
28 commercial fishery species live in or migrate through the delta. It
29 is a major stopping point for hundreds of thousands of migrating
30 birds along the Pacific Flyway. The Suisun Marsh alone contains
31 more than 10 percent of California's remaining wetlands.

32 (2) Water supply. Two-thirds of the state's population relies on
33 the delta for part or all of their drinking water. Water exported
34 from the delta irrigates 45 percent of the fruits and vegetables
35 produced in the United States.

36 (3) Agricultural and other land uses. Delta lands have
37 contributed significantly to the agricultural economy in California.
38 Supporting a population of about 470,000, the cities, towns, and

1 settlements within the delta are of significant historical, cultural,
2 and economic value.

3 (4) Major transportation corridors. The delta is crossed by three
4 state highways, three rail lines, and two deepwater channels and
5 is home to two inland ports. Most of these transportation corridors
6 serve other areas of the state.

7 (5) Utility corridors. The delta is crossed by hundreds of gas
8 lines, five high voltage lines, and a pipeline that provides drinking
9 water to residents in east San Francisco Bay. The delta is also
10 home to numerous underground natural gas storage sites.

11 (6) Recreation. The delta's 635 miles of boating waterways are
12 served by 95 marinas containing 11,700 inwater boat slips and dry
13 storage for 5,500 boats. In 2000, there were an estimated 6.4
14 million boating-related visitor days, with 2.13 million boating
15 trips. Other major recreational activities in the delta include fishing,
16 waterfowl, and upland game bird hunting, wildlife viewing, bird
17 watching, and windsurfing.

18 (7) Flood management. The delta is the natural drain to a 42,500
19 square mile watershed that includes the Central Valley and the
20 western slope of the Sierra Nevada from Fresno to Mount Shasta.
21 As such, it is the main conduit for floodwaters to flow out to the
22 ocean. The delta itself is protected by extensive, but fragile, flood
23 management facilities, including about 1,100 miles of levees in
24 the delta and about 230 miles of levees in the Suisun Marsh. These
25 levees protect about 65 islands and tracts in the delta. Most of these
26 levee-protected lands are below sea level, some areas are as much
27 as 25 feet below sea level.

28 (c) The delta cannot sustain these environmental and economic
29 values under current conditions. All of these values either are
30 already in significant decline or are at risk of sudden failure.
31 Several factors are intensifying the problems, including all of the
32 following:

33 (1) Land subsidence, sea level rise, and changes in climate make
34 Delta levees increasingly vulnerable to failure from earthquakes,
35 floods, and other causes. Over the next 50 years, there is a
36 two-thirds chance of a catastrophic levee failure in the delta,
37 leading to multiple island floodings and the intrusion of seawater.
38 For one such scenario, the Department of Water Resources
39 estimates that a large earthquake near the delta would cause major
40 interruptions in water supplies for Southern California, the San

1 Joaquin Valley, and the San Francisco Bay area, as well as
2 disruptions of power, road, and shipping lines, costing the state's
3 economy as much as \$40 billion. These failures also would create
4 major environmental disruptions and local flooding risks.

5 (2) Endangered species and fisheries have continued to decline
6 in the Delta and disruptive nonnative species continue to invade.
7 In the fall of 2004, routine fish surveys registered sharp declines
8 in the numbers of several open-water (pelagic) species, including
9 the delta smelt, already listed as threatened under the federal and
10 state endangered species acts. Subsequent surveys have confirmed
11 the trend, raising concerns that the smelt, which are sometimes
12 seen as an indicator of ecosystem health in the delta, risks
13 extinction if a solution is not found quickly.

14 (3) Delta water quality remains at risk from salts entering from
15 the ocean and the San Joaquin Valley's agricultural drainage, as
16 well as from pesticides and metals coming from agricultural and
17 urban lands. Chronic toxicants continue to be a problem, and
18 episodic toxic events from urban and agricultural applications are
19 also a major problem.

20 (4) Regional population and economic growth has increased
21 pressure to urbanize delta lands near major transportation routes
22 and urban centers. This "hardening" of delta lands simultaneously
23 raises the costs of flood risks and reduces the flexibility of land
24 management options. Unlike most other activities in the delta,
25 urbanization is generally irreversible. Additionally, urbanization
26 is self-accelerating. Urbanization in one location significantly
27 increases the value of adjacent lands. This, coupled with declining
28 profit margins for farming, will increase the pressure to convert
29 farmlands to subdivisions. This shift will come at the expense of
30 habitat protection and other services, such as water quality and
31 water supply, that are important for other parts of California.

32 (d) Failing to address any one of these issues would have severe
33 environmental and economic consequences. Failing to address all
34 of these issues would be inviting a catastrophe.

35 79602. The Legislature further finds and declares all the
36 following:

37 (a) The Legislature has increasingly called for actions to resolve
38 the conflicts in the Sacramento-San Joaquin Delta. During its
39 2005–06 Regular Session, the Legislature passed and the Governor
40 signed Assembly Bill 1200 (Laird), Senate Bill 1574 (Kuehl), and

1 Assembly Bill 1803 (Committee on Budget). Together, these bills
2 require an assessment of the potential impacts on water supplies
3 of catastrophic failures in the delta, identification and evaluation
4 of options to protect water supplies and the ecosystem of the delta,
5 the development of a vision for a sustainable delta, and a strategic
6 plan to achieve a sustainable Sacramento-San Joaquin Delta.

7 (b) The Public Policy Institute of California has made significant
8 progress in addressing many of the issues raised by that legislation.
9 In February 2007, the institute released a document entitled
10 “Envisioning Futures for the Sacramento-San Joaquin Delta.” This
11 report did a highly credible job of describing the various challenges
12 facing the delta and identified nine potential approaches to
13 resolving those challenges. The authors found that four of the nine
14 options were not promising and should not be considered further.
15 The five remaining options included two versions of an isolated
16 conveyance system, two options with reduced exports, and one
17 option featuring an armored, but not isolated, conveyance system.
18 The authors further suggested that the creation of a hybrid solution,
19 relying on some combination of key elements, may provide the
20 most promising path forward. The University of California’s
21 Department of Landscape Architecture and Environmental Planning
22 similarly made important contributions to developing a long-term
23 sustainable delta in its March 2007 report entitled “ReEnvisioning
24 the Delta: Alternative Futures for the Heart of California.”

25 (c) The recent work by the Public Policy Institute of California
26 and the University of California’s Department of Landscape
27 Architecture and Environmental Planning demonstrates that there
28 already is a significant body of knowledge regarding the challenges
29 to the delta and potential options for resolving those challenges.
30 Accordingly, the Legislature expects, consistent with the
31 Governor’s Executive Order S-17-06, that by January 1, 2008, the
32 Blue Ribbon Task Force will present a report to the Delta Vision
33 Committee and Governor that does all of the following:

34 (1) Meets the requirements of Assembly Bill 1200 and Senate
35 Bill 1574.

36 (2) Assesses the risks and consequences to the delta’s many
37 uses and resources in light of changing climatic, hydrologic,
38 environmental, seismic, and land use conditions. This assessment
39 is expected to address all of the following:

1 (A) The environment, including aquatic and terrestrial functions
2 and biodiversity.

3 (B) Land use and land use patterns, including agriculture,
4 urbanization, and housing.

5 (C) Transportation, including streets, roads, highways,
6 waterways, and ship channels.

7 (D) Utilities, including aqueducts, pipelines, and gas and electric
8 transmission corridors.

9 (E) Water supply and quality, municipal and industrial
10 discharges, and urban and agricultural runoff.

11 (F) Recreation and tourism, including boating, fishing, and
12 hunting.

13 (G) Flood risk management, including levee maintenance.

14 (H) Emergency response.

15 (I) Local and state economies.

16 (3) Develops a program for sustainable management of the
17 delta's multiple uses, resources, and ecosystem. Sustainable
18 management of the delta means managing the delta over the long
19 term to restore and maintain identified functions and values that
20 are determined to be important to the environmental quality of the
21 delta and the economic and social well-being of the people of the
22 state. As part of the delta vision process, priority functions and
23 values are expected to be identified, and measures necessary to
24 provide long-term protection and management are expected to be
25 evaluated.

26 (d) The Legislature further expects that the Blue Ribbon Task
27 Force will focus most of its attention on exploring and evaluating
28 the five options that the Public Policy Institute of California found
29 most promising; two versions of an isolated conveyance system,
30 two options with reduced exports, and one option featuring an
31 armored, but not isolated, conveyance system. It is the expectation
32 of the Legislature that the Blue Ribbon Task Force will report to
33 the Delta Vision Committee and Governor which of the five
34 options, or hybrid of options, the task force believes best meets
35 the requirements of existing law and the Governor's Executive
36 Order S-17-06.

37 (e) The Legislature further finds and declares that while the
38 delta vision process established under last session's Senate Bill
39 1574 holds great promise, the Legislature cannot sit idly by while
40 the risks to the delta continue to mount. As both the Public Policy

1 Institute of California and the University of California's
2 Department of Landscape Architecture and Environmental Planning
3 conclude, there are a number of actions that should begin
4 immediately. These include the following:

5 (1) Investing in essential emergency preparedness, such as
6 stockpiling emergency repair materials in the delta and constructing
7 one or more cutoff levees to allow isolation of the south delta from
8 brackish water following a catastrophic flooding event in the delta.

9 (2) Funding projects that would aid sustainability regardless of
10 the ultimate plan to achieve a sustainable delta, such as using bond
11 funds to set aside or purchase key habitat areas and investing in
12 demonstration projects such as the Franks Tract pilot project or
13 new fish screens at Clifton Court.

14 (3) Identifying critical levees that must be strengthened
15 immediately to protect the beneficial uses and resources of the
16 delta, as well as those levees that the state would not repair should
17 they fail.

18 (4) Commencing restoration projects to improve habitat
19 conditions for the delta smelt and other pelagic fish species, such
20 as restoration actions in the Suisun Marsh and Cache Slough
21 regions.

22 79603. It is the intent of the Legislature to enact legislation to
23 begin implementing a program for sustainable management of the
24 Delta in 2008. It is the desire of the Legislature that this legislation
25 be based on the results of the Blue Ribbon Task Force's report
26 that is to be submitted to the Delta Vision Committee and the
27 Governor by January 1, 2008. However, should that report fall
28 short of expectations, the Legislature intends to move in all due
29 haste to develop its own program for sustainable management of
30 the delta.

31 79604. (a) It is the intent of the Legislature that the
32 implementation of this division accomplish all of the following:

33 (1) Provide significant improvements to the quality of the
34 drinking water derived from the delta and used as a part of the
35 drinking water supply of 23 million Californians.

36 (2) Ensure that urban and agricultural water supplies derived
37 from the delta, including water supplies used within the delta, are
38 not disrupted because of catastrophic failures of delta levees
39 resulting from earthquakes, floods, land sinking, rising ocean
40 levels, or other forces.

1 (3) Provide a safe, clean, high quality, secure, affordable, and
2 sufficient water supply to meet the needs of California's
3 environment, residents, farms, and businesses.

4 (4) Improve and increase aquatic and terrestrial habitats and
5 improve ecological functions in the San Francisco Bay-Delta
6 watersheds to support sustainable populations of plant, fish, and
7 animal species.

8 (5) Improve water quality and reduce pollution within the
9 watersheds of the bay-delta.

10 (6) Reduce the reliance of water users on the delta through
11 conservation, reclamation, reuse, and other means.

12 (7) Create sustainable land use patterns.

13 (8) Create sustainable flood structures.

14 (9) Protect and enhance recreation and tourism opportunities.

15 (10) Maintain and improve transportation within and around
16 the delta.

17 (11) Accommodate the transmission of utilities either in or
18 around the delta.

19 (12) Develop and implement an appropriate emergency response
20 plan.

21 (13) Protect and enhance the local economy.

22 (b) Programs funded by this division shall maximize where
23 feasible scientifically based procedures to reduce global warming
24 gases emitted by exposed delta soils.

25 79605. (a) The Secretary of the Resources Agency shall take
26 necessary action to ensure the requirements of the Governor's
27 Executive Order S-17-06 are met in a timely manner.

28 (b) On or before January 1, 2008, the Secretary of the Resources
29 Agency shall develop and begin implementing the following
30 actions on behalf of the Sacramento-San Joaquin River Delta.

31 (1) Investing in essential emergency preparedness, such as
32 stockpiling emergency repair materials in the delta and constructing
33 one or more cutoff levees to allow isolation of the south delta from
34 brackish water following a catastrophic flooding event in the delta.

35 (2) Funding projects that would aid sustainability regardless of
36 the ultimate plan to achieve a sustainable delta, such as using bond
37 funds to set aside or purchase key habitat areas and investing in
38 demonstration projects such as the Franks Tract pilot project or
39 new fish screens at Clifton Court.

1 (3) Identifying critical levees that must be strengthened
2 immediately to protect the beneficial uses and resources of the
3 delta as well as those levees that the state would not repair should
4 they fail.

5 (4) Commencing restoration projects to improve habitat
6 conditions for the delta smelt and other pelagic fish species, such
7 as restoration actions in the Suisun Marsh and Cache Slough
8 regions.

9 (c) Nothing in this section grants any new authority to the
10 secretary or authorizes the use of funds not otherwise appropriated
11 by the Legislature for the express purposes of this section.

12 79606. The Legislature finds and declares that, in developing
13 a model for water movement that is consistent with the five options
14 described in subdivision (b) of Section 79602, *a it is necessary to*
15 *develop a hydrologic graph that models the Delta as a fluctuating*
16 *estuary to determine the proper ecological response to the crisis*
17 *in the Delta. A successful system must be designed to accomplish*
18 *the following:*

19 (a) Optimize opportunities to manage the delta as a fluctuating
20 tidal estuary within and between water years to mimic historic
21 salinity patterns throughout the bay-delta ecosystem.

22 (b) Optimize opportunities for recovery and restoration of native
23 aquatic and terrestrial species utilizing best available technologies
24 for minimizing entrainment of native fish during water export.

25 (c) Significantly reduce quantities of salts, halides, dissolved
26 solids, pollutants, organic chemicals, and carcinogenic precursors
27 in water exported from the delta for municipal, agricultural, and
28 industrial uses.

29 (d) Use the best available science and technology to restore
30 populations of native fisheries in the Sacramento, San Joaquin,
31 Mokelumne, and Cosumnes River systems.

32 (e) Optimize the operation of the delta to diminish, or if possible,
33 eliminate undesirable invasive nonnative aquatic plants, fish, and
34 invertebrates.

35 (f) Optimize opportunities for existing in-delta users to receive
36 water pursuant to their water rights.

37 (g) Allow for export of water at times and in ways that have the
38 least impact on native fish populations, water supply, and water
39 quality.

1 (h) Provide for the greatest possible protection of existing water
2 transmission and export facilities and transportation facilities within
3 the delta.

4 (i) Maximize the opportunity to preserve existing delta islands
5 for purposes of preservation and restoration of native fish and
6 wildlife, and agricultural production consistent with that
7 preservation and restoration.

8 79607. (a) The legislation described in Section 79603 shall
9 include a funding mechanism consistent with the option selected
10 pursuant to subdivision (b) of Section 79602.

11 (b) The legislation described in Section 79603 shall include a
12 management and governance structure consistent with the
13 principles set forth by the Public Policy Institute of California.